OCTA

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Orange County
Transit District

Local Transportation
Authority

Service Authority for
Freeway Emergencies

Consolidated Transportation
Service Agency

Congestion Management
Agency

November 7, 2022

The Honorable Liane M. Randolph
Chair
California Air Resources Board
1001 I Street
Sacramento, CA 95812

RE: Proposed In-Use Locomotive Regulation

Dear Chair Randolph:

On behalf of the Orange County Transportation Authority (OCTA), I write to you with strong concerns regarding the revised In-Use Locomotive Regulation draft as proposed by the California Air Resource Board (CARB), which seeks to transition all locomotives in the State to zero-emission. We continue to encourage CARB to not adopt the regulation, as proposed on September 20, 2022, and instead develop a regulatory framework that accounts for the commercial viability and availability of zero-emission locomotives, the unique operating environments of each rail operator, and burdensome nature of requiring annual funding set asides for zero-emission locomotives.

Metrolink commuter rail service is operated by the Southern California Regional Rail Authority, a joint powers authority (JPA) made up of an 11-member board representing Southern California transportation commissions including OCTA. Metrolink is the third largest commuter rail system in the nation, serving 538 route miles in a six-county service area. The Metrolink commuter rail service reduces over nine million car trips annually, equating to 130,000 metric tons of greenhouse gas (GHG) emissions and nearly 340 million vehicle miles traveled (VMT). OCTA is also a member of and the managing agency for the Los Angeles – San Diego – San Luis Obispo (LOSSAN) Rail Corridor JPA, which travels through a six-county coastal region in Southern California and is the second busiest intercity passenger rail corridor in the United States and the busiest state-supported Amtrak route. Even with the modified version, the In-Use Locomotive regulation would risk the availability of both essential passenger rail services due to the resulting financial harm and regulatory uncertainty.

Metrolink and LOSSAN, with their partners, have been working with CARB staff to identify the significant concerns in the regulation, primarily the impacts related to costs to passenger rail service and the availability of such technologies. As currently written, the emissions framework that underpins the regulation disincentivizes public operators from providing robust and frequent service

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levels. The framework penalizes the operations of Tier 4 locomotives with renewable petroleum-free fuel, which are the cleanest, most fuel-efficient diesel locomotives available today. Higher service levels that increase fuel consumption further financially penalizes operators. The State is inversely incentivizing operators to delay or forgo increasing service, which further increases statewide VMT and emissions from personal vehicles. Below is a summary of outstanding concerns and suggestions to reduce negative impacts to public operators:

- **Lack of commercially available zero-emission locomotive technology:** While zero-emission units have been approved for pilot service by the Federal Railroad Administration, there are currently no zero-emissions locomotive technologies that are deemed safe for passenger rail service. An independent market assessment and analysis should be completed prior to approving regulation language. This study will inform the timeline, incentives, and technologies necessary to meet the needs of operators across the State. A funded pilot phase implemented before penalties or purchase requirements are imposed would accelerate the development of technologies faster than will be possible with operators pursuing independently. The benefit would be more readily available, proven zero-emission technologies that can better meet the demand of the operators.

- **Spending Account poses extreme financial hardship:** Ensure that public agencies are not held to a Spending Account under any scenario as a means of further emissions reductions. Passenger railroads will commit to achieving the proposed locomotive emission reduction targets. However, mandatory spending accounts siphon critical operating funds needed by passenger rail agencies recovering from precipitous ridership declines due to the pandemic.

- **Extend the Alternative Compliance Plan period:** We appreciate CARB’s acknowledgement that many operators are implementing clean technology and should be provided an exception to the Spending Account as detailed in the regulation; however, the Alternative Compliance Plan (ACP) does not offer enough relief to offset the financial impacts to operators in the long term. CARB should extend the period of approval for an ACP, preferably for no less than 15 years. The ACP should also account for early emissions-reduction actions, technology adoptions, and provide credit for reductions in VMT and emissions that are facilitated through public rail service. A longer-term ACP and accounting for VMT and GHG emissions reductions through passenger rail service will provide greater certainty for operators and capture the environmental benefits accrued through service.

- **Provide flexibility to public operators:** Include consistent offramps afforded to other public transit operators under the Innovative Clean Transit regulation, including delayed implementation for financial emergencies and the availability of equipment that meets required operations and maintenance cycles. A purchase requirement and fleet management framework with the appropriate timelines would better align shared zero-emissions goals with the realities of market availability, public procurements, and complex transition plans.

- **Useful life requirement contradicts federal requirements:** As a JPA member of Metrolink, OCTA contributes approximately 29 percent of Metrolink's entire operations budget. In addition to the set aside funds requirement of up to $8 million annually for zero-emission equipment, the current proposed regulation does not align with federal funding guidelines. A CARB imposed useful life requirement of locomotives of 23 years will be significantly shorter than the federal 30-year life standard and could force agencies to repay federal funds if locomotives are retired early. These penalties can put significant financial strain on operators such as Metrolink. Any increases in Metrolink's operating and capital budgets will create a significant financial burden on OCTA.

- **Costs to member agencies:** If OCTA were to commit more financial resources to Metrolink because of this proposed regulation, it would take away from other transit and transportation programs, including a reduction in Metrolink's overall operating budget and delaying capital and state good repair projects. These projects in Orange County are already designed to improve regional air quality and congestion. A purchase requirement and fleet management framework with the appropriate timelines would better align shared zero-emissions goals with the realities of market availability, public procurements, and complex transition plans.

Metrolink and LOSSAN remain committed, along with other operators, in a shared goal to accelerate and deploy zero-emissions technology as soon as feasible in order to achieve clean air in Southern California. The Metrolink Board of Directors has already adopted aggressive goals through the Climate Action Plan. This plan outlines the target dates to deploy zero-emission technologies, highlights efforts to leverage the cleanest Tier 4 locomotives that already exceed future air-quality attainment goals and describes the planned transition to renewable diesel that will remove eight million gallons of fossil fuel annually from the California supply chain. In the spirit of trying to achieve similar goals, we ask for your reconsideration of the current requirements outlined in the In-Use Locomotive Regulation so that, together, we can achieve the shared goal to accelerate and deploy zero-emissions technology as soon as feasible.

I appreciate your consideration of this request. Please contact Alexis Leicht, Government Relations Representative, at aleicht@octa.net or (714) 560-5475 should any questions arise.

Sincerely,

Darrell E. Johnson
Chief Executive Officer

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